

# HOUSE BILL REPORT

## ESHB 1959

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### **As Passed House:**

March 6, 2009

**Title:** An act relating to land use and transportation planning for marine container ports.

**Brief Description:** Concerning land use and transportation planning for marine container ports.

**Sponsors:** House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Rodne, Williams and Armstrong; by request of Governor Gregoire).

### **Brief History:**

#### **Committee Activity:**

Local Government & Housing: 2/12/09, 2/16/09 [DPS];  
General Government Appropriations: 2/26/09 [DPS(LGH)].

#### **Floor Activity**

Passed House: 3/6/09, 96-0.

#### **Brief Summary of Engrossed Substitute Bill**

- Requires cities with a qualifying marine container port in their jurisdiction to include a container port element in their comprehensive plans.
- Authorizes cities with a qualifying port district to include a marine industrial port element in their comprehensive plans.
- Requires the Department of Community, Trade and Economic Development to provide matching grant funds to cities to support development of the container port elements.
- Declares key freight transportation corridors that serve qualifying marine port facilities to be transportation facilities and services of statewide significance.
- Includes a null and void clause if funding is not provided in the omnibus appropriations act by June 30, 2009.

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## HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Miloscia, Short, Springer, Upthegrove, White and Williams.

**Staff:** Ethan Moreno (786-7386)

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## HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Local Government & Housing be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Dunshee, Hudgins, Kenney, Pedersen, Sells, Short, Van De Wege and Williams.

**Staff:** Alex MacBain (786-7288)

### **Background:**

#### Port Districts.

Port districts are authorized to acquire, build, maintain, operate, develop, and regulate the commercial transportation, transfer, storage, handling, and terminal facilities and industrial improvements within the district. In 2008 two Washington ports, the Port of Seattle and the Port of Tacoma, had annual operating revenues in excess of \$60 million. Additionally, the 2008 operating revenues of the Ports of Vancouver and Everett both exceeded \$20 million.

#### Growth Management Act.

The Growth Management Act (GMA or Act) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the Act (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

The Department of Community, Trade and Economic Development (DCTED) provides technical and financial assistance to jurisdictions that must implement requirements of the GMA.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through development regulations mandated by the GMA.

Comprehensive plans and development regulations are subject to continuing review and evaluation by the adopting county or city. Except as otherwise provided, planning

jurisdictions must review and, if needed, revise their comprehensive plans and development regulations according to a recurring seven-year statutory schedule. Jurisdictions that do not fully plan under the GMA must, except as otherwise provided, satisfy requirements pertaining to critical areas and natural resource lands according to this same schedule.

#### Transportation Facilities and Services of Statewide Significance.

The Legislature has declared certain transportation facilities and services to be of statewide significance. Examples of these facilities include:

- the interstate highway system;
- interregional state principal arterials, including ferry connections, that serve statewide travel;
- the freight railroad system; and
- marine port facilities and services that are related solely to marine activities affecting international and interstate trade.

In addition to other planning requirements for transportation facilities, the Department of Transportation, in consultation with local governments, must set level of service standards for state highways and state ferry routes of statewide significance.

#### **Summary of Engrossed Substitute Bill:**

The comprehensive plans of cities that have a marine container port with annual operating revenues in excess of \$60 million within their jurisdiction must include a container port element. The DCTED must provide matching grant funds to qualifying cities to support development of container port elements.

The comprehensive plans of cities that include all or part of a port district with annual operating revenues in excess of \$20 million may include a marine industrial port element. Prior to adopting a marine industrial port element, the commission of the applicable port district must adopt a resolution in support of the proposed element.

Container port elements and marine industrial elements (port elements) must be developed collaboratively between the city and the applicable port, and must establish policies and programs that:

- define and protect the core areas of port and port-related industrial uses within the city;
- provide reasonably efficient access to the core area through freight corridors within the city limits; and
- identify and resolve key land use conflicts along the edge of the core area, and minimize and mitigate, to the extent practicable, incompatible uses along the edge of the core area.

Port elements must also be:

- completed and approved by the city according to the recurring review and revision schedule of the GMA; and
- consistent with the economic development, transportation, and land use elements of the city's comprehensive plan, and consistent with the city's capital facilities plan.

In adopting port elements, cities and ports must ensure that there is consistency between the port elements and port requirements pertaining to harbor and marginal land improvements, while retaining sufficient planning flexibility to secure emerging economic opportunities.

In developing port elements, a city may utilize one or more of several specified approaches, including:

- the creation of a port overlay district that protects container port uses;
- the use of buffers and transition zones between incompatible uses;
- the use of policies to encourage the retention of valuable warehouse and storage facilities; and
- the use of other approaches by agreement between the city and the port.

Any planned improvements identified in adopted port elements must be transmitted by the city to the Transportation Commission for inclusion in a specific statewide transportation plan.

The list of legislatively declared transportation facilities and services of statewide significance is expanded to include key freight transportation corridors that serve marine port facilities and services that are related solely to marine activities affecting international and interstate trade.

If funding for the requirements of the bill is not provided by June 30, 2009, in the Omnibus Appropriations Act, the bill is null and void.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony (Local Government & Housing):**

(In support) This bill is an important first step in improved port planning. As the most trade-dependent state in the nation, Washington needs to have planning that addresses areas surrounding ports. This bill is a request of the Governor and is an outgrowth of the Governor's Container Ports Initiative. The Governor is concerned about competing uses for land surrounding ports, as noncompatible uses may limit the potential of ports. The Governor has convened a work group to examine the Ports of Seattle and Tacoma and develop related recommendations. This bill implements those recommendations.

The state is beginning to rearticulate its interest in port planning. The state has an interest in ensuring that major ports survive and thrive. This bill is trying to minimize conflicts between port needs and other land uses. There are other communities besides Seattle and Tacoma that have an interest in participating in the planning process contained within the bill.

The Port of Tacoma is a vital economic engine for the region and state. It is also one of the few deep water ports that has room to grow. The Port of Tacoma needs proper planning to grow. The longshore industry lives and dies on the docks, but it has had to fight land use conversions, de-industrialization, around ports. This legislation is important to the economic vitality of ports.

(In support with concerns) The lack of proper planning is far more expensive than the costs of planning. The state has more than 70 ports, but does not have an integrated port authority. This bill is a good first step toward coordinated planning, and integrating harbor and GMA requirements. Ports should adopt a comprehensive scheme for harbor improvements that complies with current requirements. If the state wants to be competitive, it needs system-wide planning for ports and transportation.

(Opposed) None.

**Staff Summary of Public Testimony (General Government Appropriations):**

(In support) This bill implements the recommendations of the Governor's Container Ports and Land Use Work Group and is the result of a cooperative effort that began 18 months ago. The Governor's proposed budget includes \$200,000 of existing DCTED funds that would be available to the cities of Seattle and Tacoma to move forward with the planning required in the bill. The cost for the planning effort is divided equally between the state, the cities, and the ports.

(Opposed) None.

**Persons Testifying (Local Government & Housing):** (In support) Jill Satran, Office of the Governor; Eric Johnson, Washington Public Ports Association; and Todd Iverson and Jeff Davis, International Longshore and Warehouse Union.

(In support with concerns) Arthur West.

**Persons Testifying (General Government Appropriations):** Jill Satran, Office of the Governor; Eric Johnson, Washington Public Ports Association; and Ashley Probart, Washington Association of Cities.

**Persons Signed In To Testify But Not Testifying (Local Government & Housing):** None.

**Persons Signed In To Testify But Not Testifying (General Government Appropriations):** None.